

REMARKS

Applicant has carefully reviewed this Application in light of the Office Action mailed December 13, 2004. At the time of the Office Action, Claims 41, 43, 44, 46-48, and 56-58 were pending. Claims 1-18, 42, 45, 49-55, and 59-61 were previously cancelled by Applicant, and Claims 19-40 were previously withdrawn due to an election/restriction requirement. Claims 41, 43, 44, 46-48, and 56-58 stand rejected under §103(a). Applicant amends Claims 41, 43, 44, 46-48 and 56-58 and respectfully requests reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 103

Claims 41, 43-44, 47-48 and 56-58 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,629,186 issued to Robert D. Yasukawa et al. (hereinafter "Yasukawa") in view of U.S. Patent 4,560,504 issued to Edward C. Arnold (hereinafter "Arnold"). Applicant respectfully traverses and submits that the combination of Yasukawa and Arnold, even if proper which Applicant does not concede, would not yield the claimed embodiment of the invention.

Claims 41, 43-44, 46-48 and 56-58 were rejected under 35 U.S.C. §103(a) as being unpatentable over Lyles, et al. (WO 96/24631) in view of Arnold (U.S. Patent 4,560,503). Applicant has amended the claims to delete the term "antibodies." Consequently, Applicant submits neither Lyles nor Arnold alone or in combination teach all of the limitations of the Amended Claims.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to §2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable

expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Here, all the limitations of the claimed embodiment of the invention are not taught by the cited art combination (which Applicant does not concede is proper). Independent Claim 41 includes the limitations that the porous material has mean pore diameters greater than about 10 microns and a density equal to or greater than about 6 pounds per cubic foot. Neither Arnold nor Yasukawa, et al. alone nor in combination with each other teach a porous material having mean pore diameters greater than about 10 microns and a density equal to or greater than about 6 pounds per cubic foot. In addition, with the amendment to the claim, neither Yasukawa, et al. nor Arnold teach a material having "oligonucleotides, DNA, RNA, peptides, proteins, oligosaccharides, enzymes, or receptors" bound thereto. Consequently, Applicant requests withdrawal of the rejection.

In relation to the Lyles/Arnold-based rejection, with the amendment to all claims, neither Lyles, et al. nor Arnold alone or in combination teach all the limitations of the amended claims, namely a material having the above-listed compounds bound thereto. Thus, Applicant requests withdrawal of the rejection and favorable action.

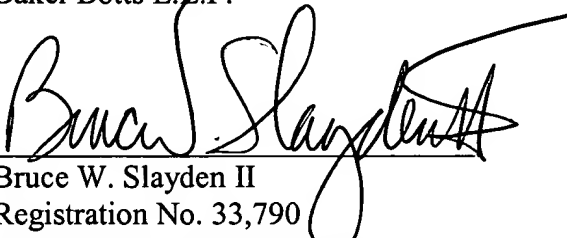
CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests reconsideration and full allowance of the claims as amended.

Applicant believes no additional fees are due at this time, however, the Commissioner is hereby authorized to charge any fees to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.322.2606.

Respectfully submitted,
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